

REMARKS

The rejections of Claims 1-3, 5 and 6 as being anticipated by Tanaka et al., under 35 U.S.C. § 102(b) and of Claims 4 and 7 as being obvious over Tanaka et al., under 35 U.S.C. § 103(a) are traversed, and reconsideration thereof is respectfully requested.

The triggerable valves 10, 40 in Tanaka et al., are not in any way intended to be operational for achieving a power or torque increase, or for sound optimization. To the contrary, the Tanaka et al., valves function solely for exhaust gas purification purpose to avoid degradation of the catalyst. This apparatus and method are far afield from the claimed invention.

The inappropriate reliance on Tanaka et al., is made all the more manifest by its use on rejected Claims 4 and 7. The referenced section (col. 10, lines 43-56) addresses only the starting of an engine in a cold state. There is not the slightest suggestion of using an engine characteristic map for switching between street vehicle operation and race car operation in the context of opening and closing exhaust flaps.

Accordingly, early and favorable action is earnestly solicited.

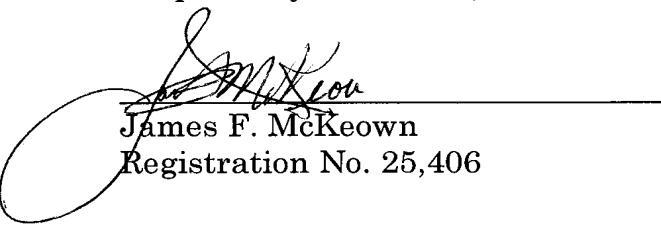
If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

Serial No. 10/790,245
Amendment and Response Under 37 C.F.R. § 1.111
Attorney Docket No. 028987.53209US

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #028987.53209US).

Respectfully submitted,

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